

the same or similar interests. The presiding officer shall have the authority to identify groups or persons with the same or similar interests in the proceedings.

(c) The presiding officer and Commission representatives shall have the right to question persons making an oral presentation as to their testimony and any other relevant matter.

## PART 1061—APPLICATIONS FOR EXEMPTION FROM PREEMPTION

Sec.

1061.1 Scope and purpose.

1061.2 Definitions.

1061.3 Statutory considerations.

1061.4 Threshold requirements for applications for exemption.

1061.5 Form of applications for exemption.

1061.6 Contents of applications for exemption.

1061.7 Documentation of the State or local requirement.

1061.8 Information on the heightened degree of protection afforded.

1061.9 Information about the effect on interstate commerce.

1061.10 Information on affected parties.

1061.11 Incomplete or insufficient applications.

1061.12 Commission consideration on merits.

AUTHORITY: 15 U.S.C. 2075; 15 U.S.C. 1261n; 15 U.S.C. 1203; 15 U.S.C. 1476.

SOURCE: 56 FR 3416, Jan. 30, 1991, unless otherwise noted.

### § 1061.1 Scope and purpose.

(a) This part applies to the submission and consideration of applications by State and local governments for exemption from preemption by statutes, standards, and regulations of the Consumer Product Safety Commission.

(b) This part implements section 26 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2075), section 18 of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261n), section 16 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1203), and section 7 of the Poison Prevention Packaging Act (PPPA) (15 U.S.C. 1476), all as amended.

### § 1061.2 Definitions.

For the purposes of this part:

(a) *Commission* means the Consumer Product Safety Commission.

(b) *Commission's statutory preemption provisions* and *statutory preemption provisions* means section 26 of the CPSA (15 U.S.C. 2075), section 18 of the FHSA (15 U.S.C. 1261n), section 16 of the FFA (15 U.S.C. 1203) and section 7 of the PPPA (15 U.S.C. 1476).

(c) *Commission statute, standard, or regulation* means a statute, standard, regulation, or requirement that is designated as having a preemptive effect by the Commission's statutory preemption provisions.

(d) *State* means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Wake Island, Midway Island, Kingman Reef, Johnston Island, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(e) *Local government* means any political subdivision of a State having the authority to establish or continue in effect any standard, regulation, or requirement that has the force of law and is applicable to a consumer product.

(f) *State or local requirement* means any statute, standard, regulation, ordinance, or other requirement that applies to a product regulated by the Commission, that is issued by a State or local government, and that is intended to have the force of law when in effect.

### § 1061.3 Statutory considerations.

(a) The Commission's statutory preemption provisions provide, generally, that whenever consumer products are subject to certain Commission statutes, standards, or regulations, a State or local requirement applicable to the same product is preempted, i.e., superseded and made unenforceable, if both are designed to protect against the same risk of injury or illness, unless the State or local requirement is identical to the Commission's statutory requirement, standard, or regulation. A State or local requirement is not preempted if the product it is applicable to is for the State or local government's own use and the requirement provides a higher degree of protection than the Commission's statutory requirement, standard, or regulation.

(b) The Commission's statutory preemption provisions provide, generally, that if a State or local government